

IT IS SO ORDERED.

Dated: 10:35 AM December 10 2009


MARILYN SHEA-STONUM *J2*
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:

Diana Lynn Riffle

Debtor(s).

) CASE NO: 09-55188
) Chapter 7

)

)

)

Judge Marilyn Shea-Stonum

ORDER AVOIDING JUDICIAL
LIEN

J2009-5053

This matter is before the Court upon consideration of a motion of the above-captioned debtor who prayed for the entry of an order avoiding a judicial lien of Arrow Financial Services, LLC pursuant to 11 U.S.C. Sec. 522(f). It appears to the Court, upon representation of counsel for the debtor, that a copy of the debtor's motion was served by ordinary U.S. Mail, postage prepaid, upon the judgment creditor, upon the attorney who filed the certificate of judgment on behalf of the judgment creditor, upon the chapter 13 trustee and the U.S. Trustee and that each of these parties was notified of the opportunity to request a hearing on the debtor's motion within 20 days from the date of the service of copies of this motion. It further appears to the Court that more than 20 days have passed since the date of the service of these copies and that no party so served has disputed any of the following allegations made by the debtor in her motion, viz.,

1. This case was commenced as a voluntary case under chapter 7, title 11 U.S.C.

on November 12, 2009.

2. As of the commencement of the case, the debtor owned, and still owns, real estate located at 150 14th St. N.W., Barberton, OH 44203. This real estate is the residence of the debtor and of the debtor's minor dependant child. The debtor has claimed a homestead exemption in this real estate in the amount of \$20,200.00 pursuant to Ohio Rev. Code Sec. 2329.66(A)(1) and \$1,075.00 pursuant to Ohio Rev. Code Sec. 2326.99(A)(18).

3. The value of the debtor's above-referenced real estate, according to the appraisal of the Summit County, Ohio Fiscal Officer, a copy of which was attached as an exhibit to the debtor's motion, is \$57,180.00. This real estate is subject to a purchase-money mortgage owed by the debtor to Mortgage Loan Service Center upon which the debtor owes an approximate principal balance of \$35,986.00.

4. On April 20, 2009, Arrow Financial Services, LLC obtained a judgment against the debtor in the Barberton, Ohio Municipal Court in a case designated in the records of that Court as case number CVF0900577. The amount of this judgment was for \$1,532.47 plus interest at the rate of 5% per annum from July 31, 2007. On July 2, 2009, Arrow Financial Services LLC caused to be filed with the Clerk of the Summit County, Ohio Court of Common Pleas a certificate of judgment designated in the records of that Court as judgment lien J 2009-5053.

5. By operation of Ohio law, the filing of this certificate of judgment creates a lien that encumbers the debtor's above-referenced residential real estate.

6. This judicial lien impairs exemptions claimed by the debtor in her residential real estate and therefore this lien is subject to avoidance by the debtor pursuant to 11 U.S.C. Sec. 522(f).

WHEREFORE, it is ORDERED, ADJUDGED and DECREED that the above-referenced judgment lien of Arrow Financial Services, LLC referred to above hereby is avoided and cancelled pursuant to 11 U.S.C. Sec. 522(f) and the same hereby is declared to be null, void and without any legal effect whatsoever.

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Submitted by:

/s/ Robert M. Whittington, Jr., Attorney for the Debtor, 0007851
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List of Parties to be Served:

Pursuant to Rule 9022, Rules of Bankruptcy Procedure, Fed.R.Civ.P. 5(b) and ECF Decisions promulgated by the Clerk of this Court, the Clerk shall serve the following by electronic notice through the ECF system if the following named recipients are registered ECF users, or otherwise by ordinary U.S. Mail, postage prepaid, or by such other means as may be permitted by these Rules, viz.,

Arrow Financial Services LLC
Attn: Officer or General Counsel
5996 W. Touhy Ave.
Niles, IL 60714-4610

Yale Levy, Esq.
4645 Executive Dr.
Columbus, OH 43220

Harold A. Corzin, trustee
304 N. Cleveland-Massillon Rd.
Akron, OH 44333

U.S. Trustee
201 Superior Ave. E. #441
Cleveland, OH 44114

Daniel Horrigan, Clerk, Summit Co. Ct. of Common Pleas
205 S. High St.
Akron, OH 44308